

SUMMARY REPORT OF INVESTIGATION<sup>1</sup>

## I. EXECUTIVE SUMMARY

Date of Incident:	May 22, 2015
Time of Incident:	10:13 p.m.
Location of Incident:	XXXX W. Wilson Ave., Chicago IL
Date of COPA Notification:	May 23, 2015
Time of COPA Notification:	9:34 p.m.

On May 22, 2015 at approximately 10:00 p.m., the complainant, Subject 1, was arrested outside of her home at XXXX W. Wilson Ave. in Chicago for Public Drinking, Battery, and Possession of Cannabis. The next day, an initiation report was generated on behalf of Subject 1 by at the XXX<sup>th</sup> District after Subject 1 appeared there in person to file a complaint about the incident. Subject 1 alleged that the accused officer, A, while affecting the arrest, threw her to the ground, directed profanity at her, and punched her about the face without justification. Subject 1 was later booked into District XXX before she was transported XXXXX Hospital to treat her injuries. Her boyfriend at the time, Subject 2, was also arrested for Public Drinking but was not within view of Subject 1's arrest.

## II. INVOLVED PARTIES

Involved Officer #1 (Accused):	<b>Officer A</b> , Star #XXXX, Employee #XXXX, Appointed XX/XX/99, Police Officer, Unit XXX, DOB XX/XX/67, Male, Hispanic
Involved Officer #2 (Witness):	<b>Officer B</b> , Star #XXXX, Employee #XXXX, Appointed XX/XX/04, Police Officer, Unit XXX, DOB XX/XX/72, Male, Hispanic
Subject #1 (Reporting Party Victim):	<b>Subject 1</b> , DOB XX/XX/93, Female, White Hispanic
Subject #2 (Witness):	<b>Freddie Rios</b> , DOB XX/XX/92, Male, White Hispanic

<sup>1</sup> On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Therefore, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendation(s) set forth herein are the recommendation(s) of COPA.

### III. ALLEGATIONS

It was alleged that on May 22, 2015 at approximately 2213 hours at XXXX W. Wilson Ave., on the street, Officer A committed the following offenses:

Officer	Allegation	Finding
Officer A:	<ol style="list-style-type: none"><li>1. Directed profanity at Subject 1, in violation of Rule 8.</li><li>2. Punched Subject 1 about the face, in violation of Rules 6, 9 and General Order 03-02.</li><li>3. Threw Subject 1 to the ground, in violation of Rule 9.</li></ol>	<ol style="list-style-type: none"><li>1. NOT SUSTAINED</li><li>2. UNFOUNDED</li><li>3. EXONERATED</li></ol>

### IV. APPLICABLE RULES AND LAWS

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#### RULES

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**Rule 6:** Disobedience of an order or directive, whether written or oral.

**Rule 8:** Disrespect to or maltreatment of any person, while on or off duty.

**Rule 9:** Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

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#### GENERAL ORDERS

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##### **Chicago Police Department Directive, General Order G03-02, Use of Force Guidelines**

*“Department members may only use force that is objectively reasonable, necessary, and proportional in order to ensure the safety of a member or third person, stop an attack, make an arrest, control a subject, or prevent escape.”*

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**V. INVESTIGATION<sup>2</sup>****a. Interviews****Complainant Subject 1**

In her interview to IPRA on May 24, 2015, Subject 1 stated that she and her boyfriend, Subject 2, were walking through her back yard at XXXX W. Wilson Ave. when they were approached by two officers in a blue, unmarked police SUV. Subject 1 started running, but was eventually apprehended by one of the officers at the front corner of her home at XXXX W. Wilson Avenue. She described the officer as a dark-skinned male, approximately 5'8" tall, with a vest on and dressed in civilian clothes. The second officer in the vehicle apprehended Subject 2 in the back yard while Subject 1 was running.

Subject 1 explained that she ran away because she got nervous, not because she was doing anything wrong. Once apprehended, the arresting officer tried to force her to get into the SUV by grabbing her hands. The officer stated, "I have to go get the other guy" and punched her in the back. She was not handcuffed at any time by this officer. She stated she could not get in the car quickly because she had surgery to her buttocks three weeks prior. When she did not get in the car quickly enough, the officer punched her on the right side of her face and her nose. The car door was open, and the officer was trying to force her in the car while she was breathing heavily. She then turned around and hit the officer on his upper body, and the officer responded by hitting her in the nose again. The officer then grabbed her hands and threw her to the ground, causing her to land face-down and hit her head. She yelled out for "somebody to record this shit," and approximately three seconds later, several other police cars arrived. A female officer then handcuffed her, searched her, and advised her that she and her boyfriend were trespassing.

Subject 1 admitted that when she was running from the officer, she threw some cash into the air because she had a small amount of weed folded into the dollar bill; however, she denied consuming any alcohol.<sup>3</sup> She also denied kicking the arresting officer. She stated that she sustained swelling on the top of her head, scrapes on her left shoulder, scratches on her left arm and chest, a bruise on her right arm, and a bruise on her nose. She was transported to XXXX Hospital in an ambulance by request of the responding officers after being processed at the station due to pain in her head. The next day, she filed a complaint with the Sergeant about the incident.

**Witness Subject 2<sup>4</sup>**

In a phone interview with IPRA on May 26, 2016 while incarcerated at the XXXX Correctional Center, Subject 2 denied witnessing this event because he was arrested in the rear yard prior to it taking place. He did not observe the arrest of Subject 1.

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<sup>2</sup> COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

<sup>3</sup> Attachment 17 documented that a bottle of Remy Martin Cognac was inventoried by arresting officers.

<sup>4</sup> Atts 33-34.

**Accused Officer A<sup>5</sup>**

In his interview to IPRA on May 31, 2016, Officer A confirmed that he and his partner at the time, Officer B, had been alerted by the Department to a person wanted for Sexual Assault in the area. The two officers encountered Subject 2 and Subject 1 in the alley drinking alcohol, and Subject 2 matched the partial description of the sexual offender. Officer A rolled down his window and called out something to the two subjects, at which point they both took off running in different directions. Officer B chased and apprehended Subject 2 on foot, and Officer A pursued Subject 1 in the squad SUV.

Officer A believed Subject 1 appeared intoxicated and also noticed a bulge in her stomach area that looked suspicious, so he detained (handcuffed) her.<sup>6</sup> This was done without any resistance. Officer A then attempted to arrest her for public drinking and place her in the squad car, and she stiffened. Once she finally sat down in the car, she immediately turned around and kicked the officer in the stomach, knocking him to the ground, and said she was going to “kick his ass.”<sup>7</sup> The officer grabbed her to remove her from the car, and they both fell to the ground. Subject 1 landed on her left side, and Officer A landed on top of her. He did not recall her hitting her head, but did recall her complaining of pain to her head and saw a mark on the left side of her face. Officer A was able to subdue her without further resistance until the other squad cars that he requested arrived.<sup>8</sup> The female officer that arrived searched Subject 1 and recovered three cell phones from her person.

Officer A was asked to explain each injury in the photographs taken of Subject 1 by the Evidence Technician. Below is a chart of the injuries indicated in the photographs, along with Officer A’s explanation of how each injury may have been sustained.

Injury	Explanation
Discoloration (redness) of chest.	Unknown.
Bruising to left shoulder.	From falling from the car to the ground and Officer B trying to control her.
Redness on scalp.	Unknown.

Officer A then went on to confirm the information in his Tactical Response Report, which documented that Subject 1 kicked him and he responded with presence, verbal commands, escort holds, a wristlock, and an emergency takedown. Below is a direct response to each allegation presented to Officer A.

Allegation	Response
Did you at any time punch Subject 1 about the face?	“No.”

<sup>5</sup> Atts 43-44.

<sup>6</sup> Officer A stated that Subject 1 had mentioned she just had liposuction surgery to her stomach, so he did not search her stomach area because she might have had medical equipment attached to her person.

<sup>7</sup> Officer A reported no injuries sustained as a result of this incident.

<sup>8</sup> A female and male officer arrived to assist. The identities of these officers was not determined. These officers were not interviewed by IPRA/COPA, as they arrived after the alleged incident and there is documented evidence of the injuries sustained by Subject 1.

Did you at any time throw her to the ground?	“No. Not purposely.”
Did you conduct an emergency takedown of her?	“Yes.”
How was the emergency takedown executed?	“I tried to grab her, trying to keep her under control, and brought her to the ground so that she would stop kicking and moving around.”
At any time, did you direct profanity at Subject 1?	“No.”

### **Witness Officer B<sup>9</sup>**

In his statement to IPRA on May 31, 2016, Officer B confirmed that he and his partner at the time, Officer A, were actively looking for a sex offender based on a description provided from dispatch. The description they were given was that of a male wearing a tank top and shorts. At around midnight, the officers observed a male with no shirt on and shorts speaking to a female in an alley, and approached them in the squad SUV. While approaching, both parties were observed drinking alcohol from a bottle of Remy Martin. When the officers opened their doors, both parties gave flight in separate directions. The male was apprehended on foot by Officer B a few feet away at XXXX W. Wilson Avenue.<sup>10</sup> Officer B then remained in that area to await further police support, and heard his partner calling for him on the radio mentioning that “something might be dangerous.” Officer B sounded scared and worked up on the radio, but other squad cars were on their way to assist.

Once Officer B had Subject 2 secured in a squad car, he walked over to where Officer A was and observed Subject 1 in custody standing on the street. He did not observe any visible injuries on Subject 1 prior to her apprehension, nor did he observe any injuries at the time of arrest. He also did not hear Subject 1 complain of any discomfort or pain while at the scene, but noted that she was verbally combative toward Officer A. He later noticed in lockup that she had some scrapes on the face, but did not know how they got there. Subject 1 also mentioned in lockup that she had liposuction to her stomach.

When shown the Evidence Technician photos of Subject 1, Officer B interpreted the injuries to be primarily because of the emergency takedown by Officer A; however, these interpretations were based on his own speculation about the cause of each injury, as he did not directly observe the actions. When asked about each specific allegation presented to Officer A, B stated he did not observe the allegations take place only heard cussing and yelling exchanged between B and Subject 1.

Officer B summed up his statement by reiterating that he only visibly saw Subject 1 when first approaching the offenders in the alley, and again when she was already in the custody of Officer A. He had no part in her physical arrest.

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<sup>9</sup> Atts 42 & 45.

<sup>10</sup> Subject 2 was not the sexual offender that police were on alert for.

### b. Physical Evidence

The **Ambulance Report**<sup>11</sup> and **Medical Records**<sup>12</sup> dated May 23, 2015 documented that the patient (Subject 1) complained of abdominal pain and knee pain that occurred approximately thirty minutes prior to being admitted to XXXX Hospital while being chased and detained by police officers. She also reported being punched in the face by an officer. The Physical Exam Report in the medical records from XXXX Hospital revealed that there was no bruising, tenderness, discoloration, or spasming noted on her face or back. The medical reports did reflect an abrasion on the top of Subject 1's head, but no additional bruising. A CT-Scan was also done of the skull, which revealed no internal hemorrhaging or fractures.

**Photographs**<sup>13</sup> of Subject 1's injuries were taken by CPD and depicted an abrasion on her upper left arm, an abrasion to her scalp, a bruise on her upper right arm, and a bruise on her left breast.

A **Canvass**<sup>14</sup> of the scene was conducted on May 24, 2016. No cameras were observed by investigators, and no witnesses were identified.

### c. Documentary Evidence

The **Department Reports**<sup>15</sup> reflected charges against Subject 1 of Battery, Drinking Alcohol on the Public Way, and Possession of Cannabis. The narratives detailed that Officer A arrested Subject 2 and Subject 1 after they were observed arguing and drinking in an alley. After a brief foot chase, both parties were apprehended. It was after Subject 1 stiffened and kicked Officer A in his stomach that the officer conducted an emergency takedown in which Subject 1 sustained the injuries. She was then taken to the hospital for minor abrasions to her left shoulder and head.

The **OEMC Event Queries**<sup>16</sup> detailed that officers were dispatched to a Battery in Progress involving a male and female Hispanic fighting in the street. The male Hispanic was described as wearing a white tank top and shorts near Kedzie & Wilson. When the officers arrived, the male fled but was later apprehended at approximately 12:03 am. The female, Subject 1, was also apprehended at approximately 11:55 pm near Whipple & Wilson. An ambulance was called for Subject 1 at 12:23 am, and she was transported to XXXXX with reports of a head injury.

## VI. ANALYSIS

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<sup>11</sup> Att 14.

<sup>12</sup> Att 23 (physical exam = pg 5).

<sup>13</sup> Atts 24-25.

<sup>14</sup> Att 27.

<sup>15</sup> Atts 15 & 21 (Arrest Reports); 18 (Case Report), 19 (Tactical Response Report), and 20 (Officer Battery Report).

<sup>16</sup> Atts 22 & 49.

**Officer A: Allegation #1**

Based on the totality of the evidence, COPA recommends that the allegation of Officer A directing profanity at Subject 1, in violation of Rule 8, be **Not Sustained**. There is insufficient to prove or disprove this claim. Although Subject 1 originally claimed that Officer A used profanity toward her, she did not elaborate in her statement to IPRA about what was said or if it was directed at her. Officer A admitted to IPRA that he used profanity at some point during the altercation, but did not direct it at Subject 1. Such profanity was also not witnessed by Officer B over the radio. Since there is no video, audio, or witness evidence, and no relevant details to determine whether the profanity was improper in the context of the circumstances, this allegation cannot be supported or refuted.

**Officer A: Allegation #2**

Based on the totality of the evidence, COPA recommends that the allegation of Officer A punching Subject 1 about the face and back, in violation of Rules 6 & 9 and General Order 03-02, be **Unfounded**. Although Subject 1 originally reported that she was hit in the nose and face, there was no medical evidence to support this allegation. Officer A completed a TRR and OBR after the incident and admitted to conducting an emergency of Subject 1, which is consistent with the reported injuries. The injuries documented in the photographs and medical reports, however, are not consistent with being struck directly in the face or back as Subject 1 reported to medical personnel. There were no visible or documented injuries to Subject 1's back or face area.

**Officer A: Allegation #3**

Based on the totality of the evidence, COPA recommends that Officer A be **Exonerated** of the allegation that he threw Subject 1 to the ground in violation of Rule 9. Officer A documented all physical actions taken in his Department reports and did not deny executing physical force to subdue Subject 1. His use of force was in response to Subject 1 resisting and kicking him in the stomach area. His reaction was consistent with officers taking someone into custody per Department policy. Officer B supported Officer A's claim that Subject 1 was verbally combative while on the scene, and also that Officer A called for help on the radio sounding "worked up." Subject 1 herself also admitted that she was resisting. The evidence supports the decision by the accused officer to employ an emergency takedown under these circumstances and did not violate Department policy.

**VII. CONCLUSION**

Based on the analysis set forth above, COPA makes the following findings:

Officer	Allegation	Finding
Officer A:	<ul style="list-style-type: none"><li>4. Directed profanity at Subject 1, in violation of Rule 8.</li><li>5. Punched Subject 1 about the face, in violation of Rules 6, 9 and General Order 03-02.</li><li>6. Threw Subject 1 to the ground, in violation of Rule 9.</li></ul>	<ul style="list-style-type: none"><li>1. NOT SUSTAINED</li><li>2. UNFOUNDED</li><li>3. EXONERATED</li></ul>

Approved:

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*Deputy Chief Administrator – Chief Investigator A*

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Date

**Appendix A****Assigned Investigative Staff**

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<b>Squad#:</b>	X
<b>Investigator:</b>	Investigator A
<b>Supervising Investigator:</b>	Supervising Investigator A
<b>Deputy Chief Administrator:</b>	Deputy Chief Administrator A